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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

SAUL LOPEZ-VELASCO,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney  
General,

Respondent.

No. 05-75016

Agency No. A92-537-440

MEMORANDUM<sup>\*</sup>

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted April 22, 2008<sup>\*\*</sup>

Before: GRABER, FISHER, and BERZON, Circuit Judges.

Saul Lopez-Velasco, a native and citizen of Mexico, petitions for review of an order of the Board of Immigration Appeals (“BIA”) dismissing his appeal from

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<sup>\*</sup> This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

an immigration judge's decision denying him cancellation of removal. We have jurisdiction pursuant to 8 U.S.C. § 1252, and grant the petition for review.

After the agency's decisions in this case, the BIA held in *Matter of Gonzalez-Silva*, 24 I. & N. Dec. 218 (BIA 2007), that "an alien whose conviction precedes the effective date for section 237(a)(2)(E) of the [Immigration and Nationality] Act has not been 'convicted under' section 237(a)(2)" for purposes of cancellation of removal. *Id.* at 220. As Lopez-Velasco's conviction for violating Cal. Penal Code § 273.5 occurred in 1994, we grant the petition for review and remand for further proceedings.

In light of our disposition, we need not address Lopez-Velasco's remaining contention.

**PETITION FOR REVIEW GRANTED; REMANDED.**